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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,567	10/31/2003	Thomas Grafenauer	03100135US	8419

7055 7590 10/19/2006

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EXAMINER
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LAUX, JESSICA L

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/697,567	<b>Applicant(s)</b> GRAFENAUER, THOMAS	
	<b>Examiner</b> Jessica Laux	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-7 and 9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-7 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>09/11/2006</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Acknowledgement is made of the amendment and remarks filed on 09/11/2006.

Accordingly claims 2, 8, 10 and 11 are cancelled:

### ***Response to Arguments***

Applicant's arguments with respect to claims 1 3-7 and 9 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Palsson (WO 01/75247).

Regarding claim 1: Palsson discloses a floor panel which is bounded in a horizontal plane by a top side having a decorative layer (3) and an underside for bearing on an underlying surface (5), the floor panel being provided with means for releasably connecting at least two panels, wherein the connecting means are formed on at least one first side edge such that locking takes place in a transverse direction and a vertical direction (sides 2 and 2'' with elements 11 and 13), and further comprising form-fitting elements for locking in a vertical direction with a further panel (bottom paragraph of page 7 – top of page 8) formed on a second side edge (2''') running at an angle to the first side edge, wherein the form-fitting elements are spaced apart from one another in the vertical direction and the transverse direction (figures 5, 6, or 7) on two spaced-

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apart, essentially vertically oriented walls, and further comprising a tongue (11) on a first side edge (2) extending in the longitudinal direction of the first side edge, and a recess (13) corresponding to the tongue formed on an opposite side edge (2''), wherein an underside of the tongue, starting from a tip of the tongue, has a continuously curved contour and wherein a radius of curvature of the contour of the underside of the tongue is constant over at least 90 degrees (figure 1).

Regarding claims 3: The floor panel according to claims 1, wherein the recess is designed as a groove with a top lip (figure 1) and a bottom lip (14), in which the tongue can be latched in the transverse direction.

Regarding claim 4: The floor panel according to claim 1, further comprising a first step-like milled relief (on edge 2''' of figure 5) formed on the second side edge and starting from the underside, wherein the first step-like milled relief includes an inner wall (21) on which one said form-fitting element (21) extending in the transverse direction is arranged and an outer wall (opposite 21 generally at 23) on which another said form-fitting element extending in the transverse direction is arranged (23), and further comprising a second step-like milled relief (2<sup>IV</sup>) formed on a side edge that is located opposite the second side edge, wherein the second step-like milled relief starts from the top side and has an other inner wall (at 24) and an other outer wall (22), on which are formed undercuts (24) which correspond with the one and the other form-fitting elements (where 24 correspond with 23 and 22 corresponds with 21), wherein the first step-like milled relief forms a shoulder which projects in a direction of the underside and has an essentially horizontally oriented head surface (figure 5), and further comprising a

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channel formed in the head surface along a longitudinal extent in relation to the second side edge (figure 5, where the channel is between 22 and the main body of the panel).

Regarding claim 5: Palsson discloses a floor panel comprising:

- a top side (3);

- an underside for bearing on an underlying surface (5);

- a first side edge (2), having a tongue (11) and an opposite side edge (2'')

having a recess (13) corresponding to the tongue, and a second side edge (2''')

extending in a transverse direction to the first side edge and having a form-fitting

elements for locking in a vertical direction with a further panel (bottom paragraph of

page 7 – top of page 8), wherein the form-fitting elements are spaced apart from one

another in the vertical direction and the transverse direction (figures 5, 6, or 7), the

second side edge includes a first step-like milled relief (on edge 2''' of figure 5) starting

from the underside and having essentially vertical inner (21) and outer walls (opposite

21 generally at 23), wherein one of said form-fitting elements (21) is formed on the inner

wall and an other said form-fitting element (23) is formed on the outer wall, and the first

step-like milled relief includes an essentially horizontal head surface with a channel

formed therein (where the underside of the step-like relief is generally horizontal and the

channel is between 21 and the main body of the panel as seen in figure 5).

Regarding claim 6: The floor panel of claim 5, wherein an underside of the tongue has a radius of curvature that is constant over at least 90 degrees (figure 1).

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Regarding claim 7: The floor panel according to claim 5, wherein the recess is designed as a groove with a top lip (figure 1) and a bottom lip (14), in which the tongue can be latched in the transverse direction.

Regarding claim 9: The floor panel of claim 5, further comprising a side edge that is located opposite the second side edge having a second step-like milled relief (2<sup>IV</sup>) and having spaced apart undercuts (24) which correspond to the form-fitting elements.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Friday, 8:30am to 4:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on 571-272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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JL  
10/05/2006

  
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TECHNOLOGY CENTER 3600